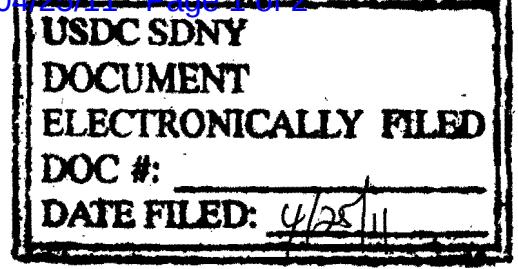


UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORKX
HECTOR ALVARADO, : 10 Civ. 5132 (SHS)Petitioner, :
-against- :
SUPERINTENDENT PHILIP D. HEATH, :
Respondent. :
X

SIDNEY H. STEIN, U.S. District Judge.

On March 24, 2011, Magistrate Michael H. Dolinger issued a Report and Recommendation recommending that Alvarado's petition be dismissed with prejudice and that petitioner's request to stay the proceedings and hold his petition in abeyance to pursue his claims of ineffective assistance of counsel in the state courts be denied. Objections to the Report & Recommendation were due on April 11, 2011. To date, no objections have been received by the Court. After a *de novo* review of the March 24, 2011, Report and Recommendation,

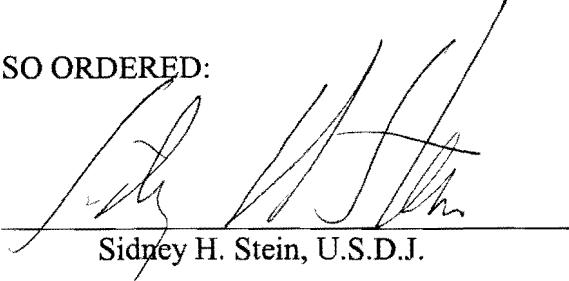
IT IS HEREBY ORDERED that:

1. Magistrate Judge Dolinger's Report and Recommendation is adopted;
2. The petition for a writ of *habeas corpus* is denied, the petition is dismissed with prejudice, and petitioner's request to stay the proceedings and hold his petition in abeyance to pursue his claims of ineffective assistance of counsel in the state courts is denied;
3. As petitioner has not made a substantial showing of the denial of a constitutional right, a certificate of appealability will not issue. 28 U.S.C. § 2253; see also Richardson v. Greene, 497 F.3d 212, 217 (2d Cir. 2007); and

4. Pursuant to 28 U.S.C. § 1915(a) the Court certifies that any appeal from this Order would not be taken in good faith.

Dated: New York, New York
April 28, 2011

SO ORDERED:



Sidney H. Stein, U.S.D.J.